

Request for Proposals
for
Preparation of Plans, Specifications and Estimate (PS&E)
for
the I-580 WB to US 101 NB Connector Project
in
Marin County

By the
Transportation Authority of Marin (TAM)

RESPONSES DUE:
3:00 PM, Thursday, June 28, 2007
Transportation Authority of Marin (TAM)
70 San Pablo Avenue
San Rafael, CA 94903

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SECTION 1 — INTRODUCTION

The Transportation Authority of Marin (TAM) serves as the Sales Tax Agency and Congestion Management Agency for Marin County and is responsible for delivering the Measure A Program and for programming state and Federal funding for transportation projects within the county. Over the past couple of years, TAM has taken on additional responsibilities in the delivery of priority projects and as part of this effort, will be taking the lead on the preparation of the Plans, Specifications and Estimate (PS&E) for the **I-580 WB to US 101 NB Connector Project**.

SECTION 2 — SERVICES TO BE PROVIDED

TAM intends to retain a qualified and committed professional engineering firm/team to provide services required for the preparation of the Plans, Specifications and Estimate (PS&E) for the **I-580 WB to US 101 NB Connector Project**. The scope of work will also include preparation of final construction bid documents, finalizing the Project Study Report (PSR) that has been developed for the Project, and preparing an environmental re-evaluation of the existing Environmental Impact Report/Statement (EIR/EIS). The selected consultant will work closely with TAM and Caltrans. The Consultant shall staff a team for the following tasks:

1. Review and develop bicycle and pedestrian improvements in the project area for inclusion in the project scope.
2. Finalize the Project Study Report (PSR) and/or develop supplemental Project Report (PR).
3. Develop “bid ready” contract documents consisting of Plans, Specifications, and Estimate (PS&E) in Caltrans format.
4. Evaluate the Project scope against the existing EIR/EIS document and determine if any additional environmental evaluation is necessary, and provide such evaluation as directed by TAM.
5. Assist TAM in bidding and awarding the project.
6. Provide design support services during the construction of the Project.

The consultant will provide professional and technical engineering services to prepare final design documents and related activities. The required engineering design services will include, but not be limited to, the following: roadway, pedestrian, bicycle, drainage, foundation investigations and design, bridge design, lighting, pavement features, traffic studies, signals, signing, striping, stage construction, landscaping, surveys, right-of-way engineering, preparation of permit applications, obtaining permits, and such other incidental features required to complete the PS&E and final bid documents. The selected consultant will also need to provide design support services during construction.

SECTION 3 — I-580 WB TO US 101 NB CONNECTOR PROJECT

Background

The US 101 freeway, which was commissioned in 1926 as one of the original U.S. highways, is an important interregional and regional corridor. This highway is the primary north-south connection within the Bay Area and between California and Oregon border. The construction of US 101 into a six-lane freeway in the project vicinity was completed in 1958. In recent years, Caltrans, TAM, and the adjacent communities have worked in partnership to add High Occupancy Vehicle (HOV) lanes on US 101 corridor in Marin County along with other operational improvements such as adding auxiliary lanes.

The existing San Quentin Wye (I-580/US 101) interchange was built in 1953. The configuration of this interchange as designated in the Highway Design Manual (HDM) is a “Type F-5 Terminal Freeway Junction” where I-580 terminates into US 101.

I-580 was constructed in 1936 as a State highway and is a primary east-west connector in the Bay Area and Marin County. The construction into a four-lane freeway was completed in 1959.

I-580 provides vital east-west regional access, as the geographic constraints created by the San Francisco Bay have limited the number of major east-west routes. I-580 traverses the Richmond-San Rafael Bridge, one of the few bay crossings. Prior to merging and terminating into NB US 101, WB I-580 narrows from two lanes to one lane on the connector.

Project Description

The I-580 WB to US 101 NB Connector Project will address recurring congestion on the I-580 Westbound (WB) to US 101 Northbound (NB) Connector, and at the heavy freeway weaving section on NB US 101, between the US 101/I-580 Interchange and the 2nd Street off-ramp in the City of San Rafael, Marin County. These proposed improvements were identified during the preparation of a draft project study report and development of the US 101/I-580 Greenbrae Corridor Complex.

The Draft Project Study Report included two build alternatives. The two build alternatives proposed adding an auxiliary lane on westbound I-580 leading into the Bellam Blvd. off-ramp; widening the WB I-580 to NB US 101 connector to two lanes; replacing the Bellam Blvd. Undercrossing bridge

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(WB I-580 direction only); and modifying the on and off-ramps to Bellam Blvd. All improvements are within the existing State's right-of-way. TAM intends to implement Alternative A as presented in the Draft Project Study Report.

Preliminary Project Schedule

TAM is committed to delivering this project expeditiously. The project is part of the State's Corridor Mobility Improvement Account (CMIA) Program that is a direct result of the state infrastructure bond that was passed by voters in November, 2006. In addition, the project is following the Gap Closure Projects that are adding HOV lanes to US101 between Corte Madera and San Rafael. The final segment of HOV lane is scheduled to open in the fall of 2009. Thus TAM desires to begin construction of the 580/101 Connector Project as soon as possible. Therefore, TAM is interested in innovative approaches to developing PS&E and securing permits and approvals that will meet or exceed the outlined time frame.

Presented in the table below is a preliminary schedule for the project.

Tasks	Completion Date
Select Consultant/TAM Board Approval	July 2007
Complete PSR/PR and finalize Project Scope	August 2007
Plans, Specs. & Estimates (PS&E) - 35% Design	October 2007
Plans, Specs. & Estimates (PS&E) - 65% Design	January 2008
Plans, Specs. & Estimates (PS&E) - 95% Design	March 2008
Final Design - Plans, Specs. & Estimates (PS&E)	May 2008
Right-of-Way Activities /Acquisition (R/W)	April 2008
Advertise Project for Construction	July 2008
Award Construction Contract	December 2008

NOTE: The Draft Project Study Report is available for review at the TAM Offices. To schedule a time to review the documents at the TAM offices, please call Denise Merleno at the TAM at (415) 507-2680.

SECTION 4 — RFP SUBMITTAL REQUIREMENTS

Please prepare your proposal in accordance with the following requirements.

1. *Proposal:* The proposal (excluding resumes and the transmittal letter) shall not exceed a total of 25 single-sided, 8.5" x 11" pages. Resumes should be included in an appendix.
2. *Transmittal Letter:* The proposal shall be transmitted with a cover letter describing the firm's/team's interest and commitment to the proposed project. The letter shall state that the proposal shall be valid for a 90-day period and should include the name, title, address and telephone number of the individual to whom correspondence and other contacts should be directed during the consultant selection process. The person authorized by the firm/team to negotiate a contract with TAM shall sign the cover letter.

Address the cover letter as follows:

Bill Gamlen, Project Delivery Manager
Transportation Authority of Marin
70 San Pablo Avenue
San Rafael, California 94903

3. *Project Understanding:* This section shall clearly convey that the consultant understands of the nature of the work, including coordination with and approvals from TAM and Caltrans.
4. *Approach and Management Plan:* This section shall provide the firm's/team's proposed approach and management plan for providing the services. Include an organization chart showing the proposed relationships among consultant staff, Caltrans staff, TAM staff and any other parties that may have a significant role in the delivery of this project.
5. *Qualifications and Experience:* The proposal shall provide the qualifications and experience of the consultant team that will be available for the **I-580 WB to US 101 NB Connector Project**. Please emphasize the specific qualifications and experience from projects similar to this project for the Key Team Members. Key Team Members are expected to be committed for the duration of the project. Replacement of Key Team Members will not be permitted without prior consultation with and approval of the TAM.

6. *Work Plan and Schedule:* The Work Plan should be structured to include the following major tasks:

WORK TASK	DELIVERABLE
Evaluate and finalize existing PSR and PR	Approved PSR, PR or Supplemental PR
Develop bicycle and pedestrian improvements	Technical Paper
Plans, Specs. & Estimates (PS&E) - 35% Design	35% Review Submittal
Plans, Specs. & Estimates (PS&E) - 65% Design	65% Review Submittal
Plans, Specs. & Estimates (PS&E) - 95% Design	95% Review Submittal
Plans, Specs. & Estimates (PS&E) – 100% Design	Final Submittal
Environmental Evaluation	Complete necessary re-evaluations
Right-of-way Engineering	Right-of-Way Certification
Permit Applications and Obtaining Permits	1. List of Applicable Permits 2. Permits
Design Support Services During Construction	As – Needed

This section shall include a description of how each major task and subtask of the project will be conducted, identification of deliverables for each major task and subtask, and a schedule. The Work Plan should be in sufficient detail to demonstrate a clear understanding of the project. The schedule should show the expected sequence of tasks and subtasks and include durations for the performance of each task, subtask, milestones, submittal dates and review periods for each submittal. Discuss the firm/team's approach for completing the PS&E services for this project on schedule.

7. *Staffing Plan:* The proposal shall provide a staffing plan (detailed by quarter and major task) and an estimate of the **total hours** (detailed by position) required for preparation of the Plans, Specifications, and Estimate (PS&E). Discuss the workload, both current and anticipated, for all Key Team Members, and their capacity to perform the requested services for the **I-580 WB to US 101 NB Connector Project** according to your proposed schedule. Discuss the firm/team's approach for completing the PS&E services for this project within budget.
8. *Additional Relevant Information:* Provide additional relevant information that may be helpful in the selection process (not to exceed the equivalent of 2 single-sided pages).
9. *References:* For each Key Team Member, provide at least three references (names and current phone numbers) from recent work (previous three years) similar to the **I-580 WB to US 101 NB Connector Project**. Include a brief description of each project associated with the reference, and the role of the respective team member.

10. *Submittal of Proposals:* Six (6) copies of your proposal are due at the TAM offices no later than the time and date specified in Section 6, below. Envelopes or packages containing the proposals should be clearly marked, **“Proposals Enclosed.”**
11. *Cost Proposal:* A cost proposal should be submitted in a **separate sealed envelope titled “PS&E Consultant Cost Proposal.”** The cost submittal should indicate the number of anticipated hours by the Project Manager and Key Team Members. The estimated level of hours for other staff can be summarized in general categories.
- Include information regarding your Federal Acquisition Regulations (FAR) multiplier and the FAR of any subconsultants. The TAM will pay costs based on the FAR plus a negotiated fee, however the overall multiplier will not exceed 3.0. Also, please include a list of personnel positions proposed for performance of the services and the hourly salary range of each classification (including subconsultants).
12. *Professional Services Contract:* Indicate your willingness to accept the terms and conditions in attached sample contract, including your ability to comply with TAM’s insurance requirements, or list those to which you take exception, and, as appropriate, provide proposed alternate wording. Note that it is not TAM’s intent to make substantial changes to attached sample contract.

SECTION 5 — SELECTION OF CONSULTANT

The overall process will be to evaluate the technical components of all the proposals completely and independently from the cost component. The proposals will be evaluated and scored on a 100 point total basis using the following criteria:

Project understanding and approach, including an understanding of TAM, and Caltrans review, approval and coordination processes.	30
Similar project experience.	20
Qualifications and specific experience of Key Team Members.	20
Schedule and capacity to provide qualified personnel.	20

Satisfaction of previous clients.	10
Total	100

TAM will evaluate each proposal and may establish a “short list” of qualified firms that will be asked to attend an interview in which the each firm will demonstrate its understanding of, and approach to the Project.

The Project Manager and Key Team Members should attend the interview. The evaluation / interview panel may include representatives from TAM and other agencies, but the specific composition of the panel will not be revealed prior to the interviews. Costs for travel expenses and proposal preparation shall be borne by the consultants.

Once the top firm/team has been determined, TAM staff will start contract negotiations with the firm/team. If contract negotiations are not successful, the second ranked firm/team may be asked to negotiate a contract with TAM, etc.

SECTION 6 — SELECTION PROCESS DATES

- June 14, 2007:** **Pre-proposal Meeting** will be held at 2:00 PM in Room 330 at the Marin County Civic Center, 3501 Civic Center Drive.
- June 28, 2007:** **Proposals are due no later than 3:00 PM** at the offices of the Transportation Authority of Marin, 70 San Pablo Avenue, San Rafael, CA 94903. *Late submittals will not be accepted.*
- July 12/13, 2007:** Interviews for consultant selection for the **I-580 WB to US 101 NB Connector Project**.
- July 26, 2007:** Consultant selection approval by TAM Board.

If you have any questions regarding this RFP, please contact:

Bill Gamlen
Project Delivery Manager
Phone (415) 507-2661
Fax (415) 507-2648
bgamlen@tam.ca.gov

SECTION 7 – DOCUMENTS AVAILABLE FOR REVIEW

1. Project Report US101 from South of Lucky Drive to North of San Pedro Road; February 17, 2000.
2. Marin HOV Gap Closure Project – Final Environmental Impact Statement/Report, December 28, 1999.
3. Draft Project Study Report – I-580 to US 101 Connector Project

Appendix A – Sample Agreement

Contract Log # _____

CONTRACT BETWEEN TRANSPORTATION AUTHORITY OF MARIN AND ABC CONSULTING

THIS CONTRACT is made and entered into this _____ day of _____, 2007 by and between the TRANSPORTATION AUTHORITY OF MARIN, hereinafter referred to as "TAM" and ABC Consulting, hereinafter referred to as "Consultant."

RECITALS:

WHEREAS, TAM desires to retain a person or firm to provide the following services:

A contract to assist the Transportation Authority of Marin in preparing; and

WHEREAS, Consultant represents that it is qualified and competent to render the aforesaid services;

NOW, THEREFORE, for and in consideration of the Contract made, and the payments to be made by TAM, the parties agree to the following:

1. SCOPE OF SERVICES

Consultant agrees to provide all of the services described in **Exhibit "A"** attached hereto and by this reference made a part hereof.

2. FURNISHED SERVICES

The TAM agrees to:

- A. Guarantee access to and make provisions for the Consultant to enter upon public and private lands as required to perform their work.
- B. Make available all pertinent data and records for review.
- C. Provide general bid and contract forms and special provisions format when needed.

3. FEES AND PAYMENT SCHEDULE

The fees and payment schedule for furnishing services under this Contract shall be based on the rate schedule which is attached hereto as **Exhibit "A"** and by this reference incorporated herein. Said fees shall remain in effect for the entire

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term of the Contract. Consultant shall provide TAM with his/her/its Federal Tax I.D. number prior to submitting the first invoice.

TAM shall make monthly payments, based on invoices received, for services satisfactorily performed, and for authorized reimbursable costs incurred. TAM shall have 30 days from receipt of an invoice that complies with Exhibit A to pay Consultant.

4. MAXIMUM COST TO TAM

In no event will the cost to TAM for the services to be provided herein exceed the maximum sum of _____ dollars (\$____,000.00) total, including direct non-salary expenses.

5. TIME OF CONTRACT

This Contract shall commence on the date first above written and shall terminate on June 30, 2008. Certificate(s) of Insurance must be current on day the Contract commences and if scheduled to lapse prior to termination date, must be automatically updated before final payment may be made to Consultant. The final invoice must be submitted within 30 days of completion of the stated scope of services.

6. INSURANCE

All required insurance coverages shall be substantiated with a certificate of insurance and must be signed by the insurer or its representative evidencing such insurance to TAM. The general liability policy shall be endorsed naming the TRANSPORTATION AUTHORITY OF MARIN as an additional insured. The certificate(s) of insurance and required endorsement shall be furnished to the TAM prior to commencement of work. Each certificate shall provide for thirty (30) days advance notice to TAM of any cancellation in coverage, except ten (10) days for non-payment for premium. Said policies shall remain in force through the life of this Contract and shall be payable on a per occurrence basis only, except those required by Sections 6.4. a. and b. which may be provided on a claims-made basis consistent with the criteria noted therein.

Failure to provide and maintain the insurance required by this Contract will constitute a material breach of the Contract. In addition to any other available remedies, TAM may suspend payment to the Consultant for any services provided during any time that insurance was not in effect and until such time as the Consultant provides adequate evidence that Consultant has obtained the required coverage.

A request for a waiver of any of the following insurance requirements must be set forth on **Exhibit "B"** attached hereto. A waiver must address reduced amounts of coverage or the type of coverage waived entirely.

6.1 GENERAL LIABILITY

The Consultant shall maintain a commercial general liability insurance policy in an amount of no less than one million dollars (\$1,000,000.00). The TAM shall be named as an additional insured on the commercial general liability policy and the Certificate of Insurance shall include an additional endorsement page. (See sample form: ISO - CG 20 10 11 85).

☐

Insurance Reduction or Waiver of Coverage Requested (Exhibit "B")

6.2 AUTO LIABILITY

Where the services to be provided under this Contract involve or require the use of any type of vehicle by Consultant

in order to perform said services, Consultant shall also provide comprehensive business or commercial automobile liability coverage including non-owned and hired automobile liability in the amount of one million dollars (\$1,000,000.00).

☐ **Insurance Reduction or Waiver of Coverage Requested (Exhibit "B")**

6.3 WORKERS' COMPENSATION

The Consultant acknowledges that it is aware of the provisions of the Labor Code of the State of California which requires every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that Code, and it certifies that it will comply with such provisions before commencing the performance of the work under this Contract. If Consultant has employees, a copy of the certificate evidencing such insurance or a copy of the Certificate of Consent to Self-Insure shall be provided to TAM prior to commencement of work.

☐ **Insurance Reduction or Waiver of Coverage Requested (Exhibit "B")**

6.4 OTHER INSURANCES

Consultant may be required to carry additional insurance based upon the nature of the work to be performed (scope of services). For each additional required insurance, a corresponding certificate of insurance must be provided. Claims made policies must have a retroactive date either prior to the effective date of the Contract or the beginning of the work in the Contract. Claims-made coverage must extend a minimum of twelve (12) months beyond completion of the work in the Contract or end of current Contract, whichever is later. If coverage is cancelled or non-renewed, and not replaced with another claims made policy with a retroactive date prior to the Contract effective date, the Consultant must purchase extended reporting coverage for a minimum of twelve (12) months beyond completion of the work in the Contract. Consultant shall maintain a policy limit of not less than one million dollars (\$1,000,000) per incident, with a deductible or self-insured retention not to exceed \$2,500 unless approved by the TAM.

6.4.a. Professional Liability Insurance.....☒ **(check box if required)**

*Deductibles greater than \$2,500 require Insurance Reduction/Waiver form (**Exhibit "B"**) to be completed.

6.4.b. Maritime Insurance.....☐ **(check box if required)**

Consultant's general liability and/or professional liability insurance may be provided, in part, by self-insurance as long as Consultant provides either (1) evidence to TAM that Consultant has segregated amounts in a special insurance reserve fund meeting the contract's insurance requirements and restricted specifically to this project or (2) Consultant's general insurance reserves are adequate to provide the necessary coverage and TAM may conclusively reply thereon, or (3) if Consultant has a deductible of \$100,000 or more, TAM shall have the same benefits and protections as if Consultant carried insurance with a third party insurance company, satisfying the insurance requirements within this contract.

7. NONDISCRIMINATORY EMPLOYMENT

Consultant and/or any permitted sub-consultant shall not unlawfully discriminate against any individual based on race, color, religion, nationality, sex, sexual orientation, age or condition of disability. Consultant and/or any permitted sub-

consultant understands and agrees that Consultant and/or any permitted sub-consultant is bound by and will comply with the nondiscrimination mandates of all Federal, State and local statutes, regulations and ordinances.

8. DRUG-FREE WORKPLACE POLICY

Consultant acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited on TAM's premises. Consultant agrees that any violation of this prohibition by Consultant, its employees, agents or assigns will be deemed a material breach of this Contract.

9. SUBCONTRACTING

The Consultant shall not subcontract nor assign any portion of the work required by this Contract without prior written approval of the TAM except for any subcontract work identified herein. If Consultant hires a sub-consultant under this Contract, Consultant shall require sub-consultant to provide and maintain insurance coverage(s) identical to what is required of Consultant under this Contract and shall require sub-consultant to name Consultant as additional insured under this Contract. It shall be Consultant's responsibility to collect and maintain current evidence of insurance provided by its sub-consultant and shall forward to the TAM evidence of same.

10. ASSIGNMENT

The rights, responsibilities and duties under this Contract are personal to the Consultant and may not be transferred or assigned without the express prior written consent of the TAM.

11. ASSIGNMENT OF PERSONNEL

The Consultant shall not substitute any personnel for those specifically named in its proposal unless personnel with substantially equal or better qualifications and experience are provided, acceptable to TAM, as is evidenced in writing.

12. LICENSING AND PERMITS

The Consultant shall maintain the appropriate licenses throughout the life of this Contract. Consultant shall also obtain any and all permits which might be required by the work to be performed herein.

13. BOOKS OF RECORD AND AUDIT PROVISION

Consultant shall maintain on a current basis complete books and records relating to this Contract. Such records shall include, but not be limited to, documents supporting all bids, all income and all expenditures. The books and records shall be kept in accordance with generally accepted accounting practices. In addition, Consultant shall maintain detailed payroll records including all subsistence, travel and field expenses, and canceled checks, receipts and invoices for all items. These documents and records shall be retained for at least five years from the completion of this Contract. Consultant will permit TAM to audit all books, accounts or records relating to this Contract or all books, accounts or records of any business entities controlled by Consultant who participated in this Contract in any way. Consultant shall refund any monies erroneously charged.

14. TITLE

Any and all documents, information and reports concerning this project prepared by the Consultant, shall be the property of the TAM. The Consultant may retain reproducible copies of drawings and copies of other documents. In the event of the termination of this Contract, for any reason whatsoever, Consultant shall promptly turn over all information, writing and documents to TAM without exception or reservation.

15. WORKS FOR HIRE

If, in connection with services performed under this Contract, Consultant or its sub-consultant create artwork, copy, posters, billboards, photographs, videotapes, audiotapes, system designs, software, reports, diagrams, surveys, blueprints, source codes or any other original works of authorship, such works of authorship shall be works for hire as defined under Title 17 of the United States Code, and all copyrights in such works are the property of TAM. If it is ever determined that any works created by Consultant or its sub-consultant under this Contract are not works for hire under U.S. law, Consultant hereby assigns all copyrights to such works to TAM, and agrees to provide any material and execute any documents necessary to effectuate such assignment. With the approval of TAM, Consultant may retain and use copies of such works for reference and as documentation of its experience and capabilities.

16. TERMINATION

- A. If the Consultant fails to provide in any manner the services required under this Contract or otherwise fails to comply with the terms of this Contract or violates any ordinance, regulation or other law which applies to its performance herein, the TAM may terminate this Contract by giving five (5) calendar days written notice to the party involved.
- B. The Consultant shall be excused for failure to perform services herein if such services are prevented by acts of God, strikes, labor disputes or other forces over which the Consultant has no control.
- C. Either party hereto may terminate this Contract for any reason by giving thirty (30) calendar days written notice to the other parties. Notice of termination shall be by written notice to the other parties and be sent by registered mail.
- D. In the event of termination not the fault of the Consultant, the Consultant shall be paid for services performed to the date of termination in accordance with the terms of this Contract so long as proof of required insurance is provided for the periods covered in the Contract or Amendment(s).
- E. Upon receipt of termination notice, Consultant shall commence and perform, with diligence, all actions necessary on the part of Consultant to effect the termination of this Contract on the date specified by TAM and to minimize the liability of Consultant and TAM to third parties as a result of termination. All such actions shall be subject to the prior approval of TAM. Such actions shall include, without limitation:
 - i. Halting the performance of all services and other work under this Consultant on the date(s) and in the manner specified by TAM.
 - ii. Not placing any further orders or subcontracts for materials, services, equipment or other items.
 - iii. Terminating all existing orders and subcontracts.
 - iv. At TAM's direction, assigning to TAM any or all of Consultant's right, title, and interest under the orders and subcontracts terminated. Upon such assignment, TAM shall have the right, in its sole discretion, to settle or pay any or all claims arising out of the termination of such orders and subcontracts.
 - v. Subject to TAM's approval, settling all outstanding liabilities and all claims arising out of the termination of orders and subcontracts.

- vi. Completing performance of any services or work that TAM designates to be completed prior to the date of termination specified by TAM.
 - vii. Taking such action as may be necessary, or as TAM may direct, for the protection and preservation of any property related to this Contract which is in the possession of Consultant and in which TAM has or may acquire an interest.
- F. In no event shall TAM be liable for costs incurred by Consultant or any of its sub-consultants after the termination date specified by TAM, except for those costs associated in compliance with the immediately preceding subsection (F). Non-recoverable costs include, but are not limited to, anticipated profits on this Contract, post-termination employee salaries, post-termination administrative expenses, post-termination overhead or unabsorbed overhead, attorneys' fees or other costs relating to the prosecution of a claim or lawsuit, prejudgment interest, or any other expense which is not reasonable or authorized under subsection (F).
- G. TAM's payment obligation under this Section shall survive termination of this Contract.

17. RIGHTS AND DUTIES UPON TERMINATION OR EXPIRATION

- A. This Section and the following Sections of this Contract shall survive termination or expiration of this Contract: 9, 13, 14, 15, 18, 19, 20, 21, 22, 23, 26, 28, 29, and 31.
- B. Subject to the immediately preceding subsection (A), upon termination of this Contract prior to the expiration of the term specified in Section 5, this Contract shall terminate and be of no further force or effect. Consultant shall transfer title to TAM, and deliver in the manner, at the times, and to the extent, if any, directed by TAM, any work in progress, completed work, supplies, equipment, and other materials produced as part of, or acquired in connection with the performance of this Contract, and any completed or partially completed work which, if this Contract had been completed, would have been required to be furnished to TAM. This subsection shall survive termination of this Contract.

18. RELATIONSHIP BETWEEN THE PARTIES

It is expressly understood that in the performances of the services herein, the Consultant, and the agents and employees thereof, shall act in an independent capacity and as an independent Consultant and not as officers, employees or agents of the TAM. Consultant shall be solely responsible to pay all required taxes, including but not limited to, all withholding social security, and worker's compensation. Consultant or any agent or employee of Consultant is liable for the acts or omissions of itself, its employees and its agents. Nothing in this Contract shall be construed as creating an employment or agency relationship between TAM and Consultant or any agent or employee of Consultant.

Any terms in this Contract referring to direction from TAM shall be construed as providing for direction as to policy and the result of Consultant's work only, and not as to the means by which such a result is obtained. TAM does not retain the right to control the means or the method by which Consultant performs work under this Contract.

19. PAYMENT OF TAXES AND OTHER EXPENSES

Should TAM, in its discretion, or a relevant taxing authority such as the Internal Revenue Service or the State Employment Development Division, or both, determine that Consultant is an employee for purposes of collection of any employment taxes, the amounts payable under this Contract shall be reduced by amounts equal to both the employee and employer portions of the tax due (and offsetting any credits for amounts already paid by Consultant which can be applied against this liability). TAM shall then forward those amounts to the relevant taxing authority.

Should a relevant taxing authority determine a liability for past services performed by Consultant for TAM, upon notification of such fact by TAM, Consultant shall promptly remit such amount due or arrange with TAM to have the amount due withheld from future payments to Consultant under this Contract (again, offsetting any amounts already paid by Consultant which can be applied as a credit against such liability).

A determination of employment status pursuant to the preceding two paragraphs shall be solely for the purposes of the particular tax in question, and for all other purposes of this Contract, Consultant shall not be considered an employee of TAM. Notwithstanding the foregoing, should any court, arbitrator, or administrative authority determine that Consultant is an employee for any other purpose, then Consultant agrees to a reduction in TAM's financial liability so that TAM's total expenses under this Contract are not greater than they would have been had the court, arbitrator, or administrative authority determined that Consultant was not an employee.

20. PAYMENT DOES NOT IMPLY ACCEPTANCE OF WORK

The granting of any payment by TAM, or the receipt thereof by Consultant, shall in no way lessen the liability of Consultant to replace unsatisfactory work, equipment, or materials, although the unsatisfactory character of such work, equipment, components, or workmanship that do not conform to the requirements of this Contract may be rejected by TAM and in such case must be replaced by Consultant without delay.

21. SUBMITTING FALSE CLAIMS AND MONETARY PENALTIES

Pursuant to Government Code sections 12650 et seq., any Consultant, sub-consultant or consultant who submits a false claim shall be liable to TAM for three times the amount of damages that TAM sustains because of the false claim. A Consultant, sub-consultant or consultant who submits a false claim shall also be liable to TAM for the costs of a civil action brought to recover any of those penalties or damages, and may be liable to TAM for a civil penalty for up to \$10,000 for each false claim. A Consultant, sub-consultant or consultant will be deemed to have submitted a false claim to TAM if the Consultant, sub-consultant or consultant: (a) knowingly presents or causes to be presented to an officer or employee of TAM, a false claim for payment or approval; (b) knowingly makes, uses or causes to be made or used a false record or statement to get a false claim paid or approved by TAM; (c) conspires to defraud TAM by getting a false claim allowed or paid by TAM; (d) has possession, custody, or control of public property or money used or to be used by TAM and knowingly delivers or causes to be delivered less property than the amount for which the person receives a certificate or receipt; (e) is authorized to make or deliver a document certifying receipt of property used or to be used by TAM and knowingly makes or delivers a receipt that falsely represent the property used or to be used; (f) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to TAM; (g) is a beneficiary of an inadvertent submission of a false claim to TAM, subsequently discovers the falsity of the claim, and fails to disclose the false claim to TAM within a reasonable time after discovery of the false claim.

22. PROPRIETARY OR CONFIDENTIAL INFORMATION OF TAM

Consultant understands and agrees that, in the performance of services under this Contract or in contemplation thereof, Consultant may have access to private or confidential information which may be owned or controlled by TAM and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to TAM. Consultant agrees that all information disclosed by TAM to Consultant shall be held in confidence and used only in performance of the Contract, unless release of information is required in the event of a claim investigation and settlement, requested by an insurance carrier or if legally required to do so, or is otherwise authorized for disclosure by TAM. Consultant shall exercise the same standard of care to protect such information as a reasonably prudent Consultant

would use to protect its own proprietary data.

23. MODIFICATION OF CONTRACT

This Contract may not be modified, nor may compliance with any of its terms be waived, except by written instrument executed and approved in the same manner as this Contract.

24. ENTIRE AGREEMENT

This Contract sets forth the entire agreement between the parties, and supersedes all other oral or written provisions. This Contract may be modified only as provided in Section 19.

25. SEVERABILITY

Should the application of any provision of this Contract to any particular facts or circumstances be found by a court of competent jurisdiction to be invalid or unenforceable, then (a) the validity of other provisions of this Contract shall not be affected or impaired thereby, and (b) such provision shall be enforced to the maximum extent possible so as to effect the intent of the parties and shall be reformed without further action by the parties to the extent necessary to make such provision valid and enforceable.

26. JURISDICTION AND VENUE

This Contract shall be construed in accordance with the laws of the State of California and the parties hereto agree that venue shall be in Marin County, California.

27. INDEMNIFICATION

Pursuant to Civic Code 2782.8, Consultant agrees to indemnify, defend, and hold TAM, its employees, officers, and agents harmless from all liabilities arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of Consultant.

28. LIABILITY OF TAM

TAM's payment of obligations under this Contract shall be limited to the payment of the compensation provided for in Sections 3 and 4 of this Contract. Notwithstanding any other provision of this Contract, in no event shall TAM be liable, regardless of whether any claim is based on contract or tort, for any special, consequential indirect or incidental damages, including, but not limited to lost profits, arising out of or in connection with this Contract or the services performed in connection with this Contract.

29. COMPLIANCE WITH APPLICABLE LAWS

The Consultant shall comply with any and all Federal, State and local laws (including, but not limited to Covenant Against Contingent Fees (Exhibit C)) affecting services covered by this Contract. Copies of any of the above-referenced local laws and resolutions may be secured from the TAM's contact person referenced in Section 31. NOTICES below.

30. ADMINISTRATIVE REMEDY FOR AGREEMENT INTERPRETATION

**Request for Proposals
I-580 WB to US 101 NB Connector Project**

**Transportation Authority of Marin
May 29, 2007**

Should any question arise as to the meaning and intent of this Contract, the question shall, prior to any other action or resort to any other legal remedy, be referred to the Executive Director of TAM, who shall decide the true meaning and intent of the Contract.

31. NOTICES

This Contract shall be managed and administered on TAM's behalf by the Contract Manager named below. All invoices shall be submitted and approved by this Contract Manager and all notices shall be given to TAM at the following location:

Contract Manager:	Bill Gamlen
Location:	Transportation Authority of Marin 70 San Pablo Avenue San Rafael, CA 94903-4161
Telephone No.:	415.507.2661

Notices shall be given to Consultant at the following address:

Contractor:	Joe Doe
Location:	ABC Consulting 1234 Main Street; Suite 123 Marin, CA 94000
Telephone No.:	415.284.1544

32. ACKNOWLEDGEMENT OF EXHIBITS

CONSULTANT'S INITIALS

<u>EXHIBIT A.</u>	<input checked="" type="checkbox"/>	<u>Scope of Services and Budget</u>
<u>EXHIBIT B.</u>	<input checked="" type="checkbox"/>	<u>Insurance Reduction/Waiver</u>
<u>EXHIBIT C.</u>	<input checked="" type="checkbox"/>	<u>Covenant Against Contingency Fees</u>

IN WITNESS WHEREOF, the parties have executed this Contract on the date first above written.

TRANSPORTATION AUTHORITY OF MARIN:

CONSULTANT:

By: _____ By: _____
Dianne Steinhauser, Executive Director Authorized Signature

Name (Print)

Title

Company Name

Federal Employer ID Number or SSN

EXHIBIT B

INSURANCE REDUCTION/WAIVER (if applicable)

CONSULTANT: _____

CONTRACT TITLE: _____

This statement shall accompany all requests for a reduction/waiver of insurance requirements. Please check the box if a waiver is requested or fill in the reduced coverage(s) where indicated below:

	<i>Check Where Applicable</i>	<i>Requested Limit Amount</i>	<i>TAM Use Only</i>
General Liability Insurance	<input type="checkbox"/>	\$	
Automobile Liability Insurance	<input type="checkbox"/>	\$	
Workers' Compensation Insurance	<input type="checkbox"/>		
Professional Liability Deductible	<input type="checkbox"/>	\$	

Consultant - please set forth the reasons for the requested reductions or waiver.

TAM Contract Manager Signature: _____

Date: _____

EXHIBIT C

COVENANT AGAINST CONTINGENCY FEES

The Contractor warrants that he/she has not employed or retained any company or person, other than a bona fide employee working for the Contractor; to solicit or secure this Contract; and that he/she has not paid or agreed to pay any company or person other than a bona fide employee, any fee, commission, percentage, brokerage fee, gift, or any other consideration, contingent upon or resulting from the award, or formation of this Contract. For breach or violation of this warranty, the local agency shall have the right annul this Contract without liability, or at its discretion; to deduct from the Contract price or consideration, or otherwise recover the full amount of such fee, commission, percentage, brokerage fee, gift, or contingent fee.